

PUBLICATION

Spotlight on Alabama: Legislature Creates New Incentives to Lure Data Processing Centers

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Alabama has adopted a strong set of tax incentives under the Alabama Data Processing Center Economic Incentive Enhancement Act (the Act).

The Act demonstrates Alabama's increased desire to lure data centers to the state by expanding the scope and breadth of the incentives available for investments in these centers. For this purpose, a data center is defined as a location engaged in providing specialized reports from data, data processing and data entry services, infrastructure for hosting or data processing services, specialized hosting activities, application services, time-share mainframe facilities, or some combination of the foregoing, without regard to whether any other activities are conducted there.

Under pre-Act law, data processing centers could receive abatements of non-educational construction-related transaction taxes (ending on the date the center is placed in service), and up to a ten-year maximum of non-educational ad valorem taxes. In order to qualify under pre-Act law, the data center would have to create fifty new jobs.

Under the new Act, the new job requirement is lowered from fifty to twenty new jobs with an average total annual compensation of \$40,000, including benefits. In addition, the property that is subject to abatement of ad valorem taxes now includes property added to the center within the abatement period, and the maximum abatement period is lengthened for larger capital investments. Specifically, for projects with aggregate capital investment of \$200 million or less within a ten year period beginning on the commencement of the acquisition, construction or equipping of the data center, the maximum abatement period remains 10 years. For projects with aggregate capital investments of greater than \$200 million but less than \$400 million within that ten year period, the maximum abatement period is 20 years. And for projects with at least \$200 million of capital invested in the first ten year period and at least \$400 million of capital invested throughout the first 20 years, the maximum abatement period is increased to 30 years.

The ability to aggregate investments in new equipment over the life of the abatement, the application of the abatement to new equipment acquired during the abatement period, and the longer abatement period based on aggregate total investment, are new concepts to Alabama's tax incentives laws. The details of how to implement these new concepts will need to be addressed by the Alabama Department of Revenue.

Should you have any questions regarding this new Act or any incentive program in Alabama, please contact any of the attorneys in the firm's Tax Department.